

SN. 10/579,895

ATTORNEY DOCKET NO. YAMA:127

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Yusuke KONAGAI et al.
Serial No.: 10/579,895
PCT No.: PCT/JP2004/017639
Int'l Filing Date: 19 November 2004
Priority Date: 21 November 2003
Title: ARRAY SPEAKER APPARATUS
Group Art Unit:
Examiner:
Attorney Docket No.: YAMA:127

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PETITION TO VACATE EXPRESS ABANDONMENT

Sirs:

Applicants hereby petition to vacate the express abandonment granted in this application because the Petition for Express Abandonment to Avoid Publication under 37 CFR 1.138(c), filed on July 12, 2006, was filed by an attorney not of record and therefore improper. The statement of facts involved in this improper express abandonment is as follows:

On May 19, 2006, the firm of DRINKER, BIDDLE & REATH, LLP filed papers to enter the national stage of PCT/JP2004/017639 and the application was given the US application number 10/579,895.

Subsequently, on May 22, 2006, the firm of ROSSI, KIMMS & MCDOWELL LLP, filed a national stage entry for the same PCT application: PCT/JP2004/017639. This application was assigned the US application number 10/580,075. This application could not be processed as intended because a US serial number already existed for this international application as a result of the earlier filing by DRINKER, BIDDLE & REATH LLP.

On July 12, 2006, the law firm of DRINKER, BIDDLE & REATH, LLP filed a "Petition for Express Abandonment to Avoid Publication Under 37 CFR 1.138(c)" for US application number 10/579,895, the number originally assigned to this national stage entry application. On July 12, 2006, the Decision Granting Petition under 37CFR 1.138(c) was issued by the Pre-Grant Publication Division.

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On July 18, 2006, the firm of ROSSI, KIMMS & MCDOWELL LLP filed a declaration in compliance with 37 CFR 1.497(a) and (b), including a power of attorney indicating the firm of ROSSI, KIMMS & MCDOWELL LLP as the attorney of record for the prosecution of the national stage entry application based on PCT/JP2004/017639.

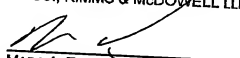
The submission of the two sets of national stage papers to enter the United States was improper and to remedy the situation, the Office merged the two national stage applications for PCT/JP2004/017639. The Office maintained US application number 10/579,895, as assigned to the application filed by DRINKER, BIDDLE & REATH, as the application number for the national stage entry of PCT/JP2004/017639. US application number 10/580,075, as assigned to the application filed by the attorney of record ROSSI, KIMMS & MCDOWELL LLP, was made invalid.

As a result of the merger of the two applications under US application number 10/579,895, the application remains expressly abandoned because of the improperly filed petition by DRINKER, BIDDLE & REATH, a party with no authority to file such a petition. The Power of Attorney for this application was given to ROSSI, KIMMS & MCDOWELL LLP and the Applicants request that the Decision Granting the Petition under 37 CFR 1.138 (c) be vacated as improper.

Applicants believe that no fee is due in filing this Petition To Vacate Express Abandonment since the application is expressly abandoned only as a result of the merger of the two national stage applications under US application number 10/579,895, the application in which the improper Petition for Express Abandonment was filed and subsequently granted. In the event, however, that it is determined that a fee is due, the Commissioner is hereby authorized to charge any fee(s) associated with vacating the express abandonment to deposit account 18-2058.

Respectfully submitted,

ROSSI, KIMMS & MCDOWELL LLP


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